

**Translation**

PATENT COOPERATION TREATY

PCT/EP2003/00506



# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference MV 579-17800.7/me	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/005061	International filing date ( <i>day/month/year</i> ) 14 May 2003 (14.05.2003)	Priority date ( <i>day/month/year</i> ) 20 June 2002 (20.06.2002)
International Patent Classification (IPC) or national classification and IPC B65B 9/04		
Applicant MULTIVAC SEPP HAGGENMÜLLER GMBH & CO. KG		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of _____ sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"><li>I <input checked="" type="checkbox"/> Basis of the report</li><li>II <input type="checkbox"/> Priority</li><li>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li><li>IV <input type="checkbox"/> Lack of unity of invention</li><li>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li><li>VI <input type="checkbox"/> Certain documents cited</li><li>VII <input type="checkbox"/> Certain defects in the international application</li><li>VIII <input type="checkbox"/> Certain observations on the international application</li></ul>	

Date of submission of the demand 19 January 2004 (19.01.2004)	Date of completion of this report 05 October 2004 (05.10.2004)
Name and mailing address of the IPEA/EP	Authorized officer
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# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/005061

## I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

- ☐ the international application as originally filed.
- ☒ the description, pages 1-9, as originally filed,  
 pages \_\_\_\_\_, filed with the demand,  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the claims, Nos. 1-13, as originally filed,  
 Nos. \_\_\_\_\_, as amended under Article 19,  
 Nos. \_\_\_\_\_, filed with the demand,  
 Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
 Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the drawings, sheets/fig 1/7-7/7, as originally filed,  
 sheets/fig \_\_\_\_\_, filed with the demand,  
 sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
 sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

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## V. Reasoned statement under Product 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-9	YES
	Claims	10-13	NO
Inventive step (IS)	Claims	1-9	YES
	Claims	10-13	NO
Industrial applicability (IA)	Claims	1-13	YES
	Claims		NO

### 2. Citations and explanations

#### 1). Citations

Reference is made to the following documents:

D1: US 3 956 867 A

D2: US 4 567 713 A

D3: US 4 471 599 A

D4: JP 6 110 612 A

#### 2). Claim 1

2.1). D1 discloses a process for packing a product using a package formed from a shrinkable lower film (see the description: column 3, lines 24-28) and an upper film (see [56] figure 1), having the following steps:

- deep-drawing (see [10] figure 1) the lower film to form a receptacle for receiving the product,
- filling (see [12] figure 1) the receptacle with the product,
- supplying the upper film (see [56] figure 1) to cover the filled receptacle,
- evacuation and sealing (see [16] figure 1) the

receptacle so covered along an edge,

- detaching the edge.

2.2). D1, which is considered to represent the closest prior art, discloses a process from which the subject matter of claim 1 differs in that

- a) the upper film is also shrinkable,
- b) heat is applied to all sides of the package so formed to produce shrinking from all sides.

2.3). D2 shows the application of heat to the formed package. However, heat is applied from below and laterally only. D3 shows feature a), but none of the available prior art documents prompts the solution achieved through the two features a) and b).

Claim 1 therefore satisfies the criteria of PCT Article 33(2) and (3).

3). *Claims 2-9*

Both independent claim 5 and dependent claims 2-4 and 6-9 contain the inventive combination of features in claim 1 and therefore claims 2-9 satisfy the criteria of PCT Article 33(2) and (3).

4). *Claim 10*

The present application does not meet the requirements of PCT Article (1) because the subject matter of claim 10 is not novel within the meaning of PCT Article 33(2).

Both D1 and D4 evidently disclose all the features of independent claim 10 (see D1: figure 4 and description:

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column 5, lines 54-57; D4, see figures 1-6).

5). *Dependent claims 11-13*

The subject matter of dependent claims 11-13 also lacks novelty (PCT Article 33(2)).

6). *Industrial applicability*

The industrial applicability (PCT Article 33(4)) of claims 1-13 is indisputable.

Other:

1). Contrary to PCT Rule 5.1(a)(ii), the description does not cite D1 or D4 or indicate the relevant prior art disclosed therein.